

# Special Financial Assistance Final Rule

## PBGC Update: SFA Applications Under the Final Rule

*September 21, 2022*

*All remarks are off-the-record and not for attribution.*



- Application Process – What Has Changed from the Interim Final Rule
- Application Process – What Has Not Changed from the Interim Final Rule
- Application Walkthrough
  - General Information
  - MPRA Plans
  - Supplemented Applications for IFR Filers that have received SFA
- Lessons Learned
- Questions



# Overview of Final Rule



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## What has not changed:

- Plan eligibility requirements – statutory criteria
- Basic definition of Special Financial Assistance – consider all plan resources and obligations
- Basic application and review processes
- Reporting and monitoring – post-SFA receipt

## What has changed:

- Permissible investments for SFA assets
- Interest rates used to calculate SFA
- SFA amount for Multiemployer Pension Reform Act plans
- Certain conditions
- Certain application requirements



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# Application Walkthrough

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# “Must Have” Documents/Tools

Section 4262 of  
ERISA

Final  
Rule effective  
August 8, 2022

Assumptions  
Guidance

Application  
Instructions

Application  
Checklist

Application  
Templates

# General Filing Instructions

**Section A – Plan identifying information**

**Section B – Plan documents**

**Section C – Plan data**

**Section D – Plan statements**

**Section E – Checklist, certifications, and SFA-related plan amendments**

**Addendum A** – Relates to plans experiencing certain events between July 9, 2021, and its SFA measurement date

**Addendum B** – Reinstatement of suspended benefits (MPRA & reduction to PBGC guarantee due to insolvency)

**Addendum C** – Supplemented application for plans that received payment of SFA under the IFR

**Addendum D** – Additional information to be filed for MPRA plans



## Lock-in Application (Final Rule § 4262.10(g))

- Treated as a plan’s initial application and locks in the plan’s:
  - Measurement date
  - Participant census data
  - Non-SFA interest rate
  - SFA interest rate

## When can eligible plans file a lock-in application?

On or Before March 11, 2023	After March 11, 2023
Haven’t filed an initial application	Haven’t filed an initial application
In Priority Group 5 or Priority Group 6 (and Priority Group is open)	
e-Filing Portal is temporarily closed	

## Where to file?

- Submit to [multiemployerprogram@pbgc.gov](mailto:multiemployerprogram@pbgc.gov), not through the e-Filing Portal

# Three Methods of Determining SFA for MPRA Plans

- Amount of SFA payable to plans that implemented benefit suspensions under MPRA will be the greatest of three amounts:
  - *Basic Method*: SFA determined in the same manner as that used for non-MPRA plans
  - *Increasing Assets Method*: SFA determined as the lowest amount such that as of the end of the SFA coverage period, the sum of projected SFA assets and projected non-SFA assets is greater than the amount of such sum as of the end of the immediately preceding plan year
  - *Present Value Method*: SFA equal to the present value of the MPRA benefit suspensions
- Refer to the July 28, 2022, webinar for more details

# Contents of Supplemented Application

- Must not change:
  - Plan's SFA measurement date
  - Fair market value of assets
  - Participant census data
  - Any projection assumptions except:
    - Implementation of the two interest rate structure, and
    - Exclusion of contribution rate increases agreed to on or after July 9, 2021
- Refer to the July 28, 2022, webinar for more details on Supplemented Applications



# **Lessons Learned & Common Errors**

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# Data Entry and Format Errors

- Double-check that the Employer Identification Number/Plan Number you enter into PBGC's E-Filing Portal is correct when submitting your filing. The filing can be rejected if there is an error.
- Ensure that the dollar amount of SFA requested that is entered on the E-Filing Portal screens matches the amount in all of the associated documents.
- Provide your checklist and templates in Excel format, not PDF.

# Lessons Learned & Common Errors

- Remember to provide a reconciliation of plan assets from the last audited financial statements to the SFA measurement date.
- All signatures of trustees and plan professionals should be associated with typed or printed names of the signor.
- The final rule now requires a death audit report, if there is personally identifiable information, please redact it before submission.

# Lessons Learned & Common Errors

- The SFA compliance amendment must be executed. However, if the plan is required to submit a reinstatement amendment, that amendment must be proposed (not fully executed) and accompanied by a certification that the amendment will be timely adopted. Please take a look at the model amendments available on [PBGC.gov](http://PBGC.gov).
- For SFA payments, the plan must provide a completed Automated Clearing House form and a letter from the plan's bank with a notarized signature. This applies even if the form of payment is Fedwire. Please ensure banking information on both forms match.

# Lessons Learned & Common Errors

- If you have hard to value investments, please provide sufficient information to allow us to verify the roll-forward of the investments' value from the latest valuation/audited financials to the SFA measurement date.
- SFA assets must be segregated from other plan assets. That does not require an entirely different custodian or bank, but it does require a separate account.



# Assumptions

- For any assumptions used to determine the SFA amount that are different than those used in the plan's pre-2021 zone status certification (excluding interest rates), be sure to provide a statement that the original assumption is not reasonable, along with supporting rationale.
- Contribution Base Unit assumptions coming from the expertise of plan trustees will still require supporting documentation for the data relied on or methodology used.

# Assumptions

- For any assumption changes that fall outside of the acceptable criteria in the Assumptions Guidance, the more support you can provide, the better. Every plan can utilize whichever assumptions they believe to be most appropriate. Bear in mind, however, that unchanged assumptions are considered to represent a neutral view of circumstances, unbiased by the prospect or affecting the amount of SFA.
- For administrative expenses, pay particular attention to newly forecasted expenses that have not been borne in the past.

Webpage: <https://www.pbgc.gov/arp-sfa>

## Webinar series targeting trustees and practitioners

- July 28, 2022 – focus is plans currently eligible to apply; decisions before August 8, 2022
- August 4, 2022 – all eligible plans; overview of changes in the Final Rule, application process, and expanded assumptions guidance
- August 16, 2022 – permissible investments

For SFA Practitioner Related Questions or to Request a Pre-Application Consultation:

Email [multiemployerprogram@pbgc.gov](mailto:multiemployerprogram@pbgc.gov)

# Thank you!



## Questions?

For official PBGC statements, please contact  
PBGC Public Affairs at 202-229-4343 or  
[PBGCExternalAffairs@PBGC.gov](mailto:PBGCExternalAffairs@PBGC.gov).

